

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Civil File No. 16-cv-1954 (DWF/LIB)

Julie Denny, individually and on behalf of  
H.A.B.,

Plaintiffs,

v.

Bertha-Hewitt Public Schools, Independent  
School District No. 786,

Defendant.

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**[REDACTED]**  
**PETITION FOR APPROVAL OF**  
**MINOR SETTLEMENT**

COMES NOW the Petitioner, Julie L. Denny, and moves the Court for approval of a settlement on behalf of H. A. B. H.A.B. is an eleven (11) year old girl born to Julie Denny on the [redacted]. H.A.B. was diagnosed with Down's syndrome at birth and as a result is a vulnerable, non-verbal child. While attending the public school, H.A.B. was alleged to have sustained injuries arising out of physical abuse and disparate discipline in the public school setting. Julie Denny filed claims against the Bertha-Hewitt Public Schools on behalf of her H.A.B. and settled those claims as set forth herein.

**I. SUMMARY OF RECOMMENDATIONS**

GROSS SETTLEMENT           \$ [Redacted]

NET PROCEEDS               \$ [Redacted]

The Net Proceeds will be protected through a pre-existing Special Needs Trust at Mid-Central Federal Savings Bank.

## **II. CLAIM**

Julie L. Denny on behalf of her minor child, H.A.B. (DOB: 6/14/2006) brought claims for alleged physical abuse and disparate discipline against the Bertha-Hewitt Public Schools. Julie Denny has sole physical and legal custody of H.A.B. pursuant to a divorce decree. H.A.B. is a child with Down's syndrome and as a consequence is largely non-verbal. H.A.B. is unable to report her own mistreatment or abuse. During the 2015/16 school year, H.A.B. was alleged to have been repeatedly physically assaulted and disciplined by a special education paraprofessional in the Bertha-Hewitt Public Schools. The alleged assaults were witnessed by same-age students and reported to Bertha-Hewitt administration.

## **III. INSURANCE AND ASSETS AVAILABLE TO SATISFY CLAIM**

Bertha Hewitt Public Schools, the Defendant in the underlying claims, held an insurance policy that covered liability for the claims.

## **IV. SETTLEMENT OFFER**

Defendant Bertha Hewitt offered, as a result of a day-long mandatory settlement conference with the Magistrate Judge, Julie Denny the sum of \$ [redacted] to settle all claims on behalf of H.A.B. Julie Denny agreed. A copy of the settlement agreement is attached as Exhibit A.

## **V. APPORTIONMENT**

There are no other family members or persons having claims arising out of this incident which the Court would have to apportion or otherwise take into account in determining the adequacy of the proposed settlement on behalf of the minor.

**VI. FEES, COSTS, AND OUT-OF-POCKET****Attorney's Fees**

Julie Denny employed and retained Margaret O'Sullivan Kane of Kane Education Law, to represent H.A.B. under a one-third contingent fee agreement. The attorney's fee on the proposed settlement totals \$ [redacted]

**VII. PROCEEDS OF SETTLEMENT**

Offer	\$[redacted]
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Less Costs: Attorney's Fees	\$[redacted]
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TOTAL DEDUCTIONS:	<u>\$[redacted]</u>
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Net Proceeds	<u>\$[redacted]</u>
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**VIII. APPLICATION OF PROCEEDS**

Julie L. Denny will place the proceeds into a pre-existing Special Needs Trust located at Mid-Central Federal Savings Bank (Acct. No. XXXXXX3431). Because H.A.B. is a minor child, no guardianship has been established. Julie L. Denny has already created and files Special Needs Trust, with H.A.B. as the Beneficiary, consistent with Minn. Stat. § 501B.89, subd. 3 and 42 U.S.C. § 1396p(d)(4)(A).

**IX. DISBURSEMENT OF FUNDS**

Out of the settlement proceeds, funds should be disbursed to pay the out of pocket expenses, attorney's fees, and other deductions as set forth above.

**WHEREFORE**, Petitioner requests that the Court enter an order as follows:

1. Approving the Minor Settlement Agreement;
2. Approving the payment of the attorney's fees; and
3. For other and further relief as the Court may deem just and proper.

Respectfully submitted,

**KANE EDUCATION LAW, LLC.**

Dated: November 6, 2017

/s/ Margaret O'Sullivan Kane  
Margaret O'Sullivan Kane /ID # 220243  
Attorney for Petitioner  
420 Summit Avenue  
Suite 306  
Saint Paul, Minnesota 55102  
651/222-8611

**VERIFICATION**

I verify that I have read the foregoing Petition, and that all of the facts and statements made therein are true and correct to the best of my knowledge, as to the attached documents they are true and correct copies, and as to those facts stated on information and belief, I also believe them to be true and correct.

Dated: November 6, 2017

/s/ Julie L. Denny  
Julie L. Denny

Subscribed and sworn to before me  
this \_\_\_\_ day of November 2017.

\_\_\_\_\_  
Notary Public